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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1720 OF 2005

Shabnam F. Batatawala ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. Srikrishnan i/b Mr. M.G. Gawade for the petitioner.

Mr. V.S. Masurkar with Mr. N.V. Masurkar for the respondents.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 22ND NOVEMBER 2005.

P.C.:-

1. The petitioner is the widow of one Farook Batatawala. He was working with the Department of Central Excise, Mumbai II as Inspector. He died on 1/5/1998. On 2/9/1998, the petitioner applied to respondent 3 for appointing her to the post of Inspector in the Central Excise Department on compassionate ground, as the petitioner was a graduate and duly qualified to work as Inspector. Respondent 3 by their letter dated 14/10/1998 informed the petitioner that her application has been considered for the post of "Upper Divisional Clerk". In October, 1998, the petitioner received the appointment letter containing the terms and conditions of her appointment to the post of "Upper Divisional Clerk". She accepted the employment and started working. In October,

2001, the petitioner made representation to respondent 3 requesting that she may be considered for the post of Inspector/Examiner. It is her case that in or about 2002, she learnt that when she had made the application for the post of Inspector on compassionate ground, two other persons had also applied to respondent 3 for appointment to the post of Inspector on compassionate ground and respondent 2 appointed both of them to the post of "Examiner", which is equivalent to the post of "Inspector". The petitioner addressed another letter to respondent 2 requesting that her case may be considered for the post of Inspector/Examiner. However, respondents 2 and 3 did not consider the petitioner's case. The petitioner, therefore, filed original application before the Central Administrative Tribunal, Mumbai. The Central Administration Tribunal, Mumbai by its order dated 8/2/2005 rejected the petitioner's original application.

Hence, the petitioner has preferred this petition.

2. We have heard the learned counsel for the petitioner. In our opinion, no interference is necessary with the impugned order. The petitioner has accepted the appointment. Only because, according to her, two other persons were appointed to the post of Inspector/Examiner, she cannot contend that she may also be appointed to the said post. It appears that the C.B.E.C. has issued a direction vide letter dated 15/1/1991 that appointment to such posts should not be made on compassionate grounds. Appointment of two other persons made in violation of

this direction does not give any legal right to the petitioner to be appointed to the post of Inspector. There is no merit in the petition. The petition is rejected.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)